



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
CBS Broadcasting, Inc)
Kerry-Edwards 2004, Inc., and) MURs 5540 & 5545
Robert Farmer, in his official)
Capacity as Treasurer)
)
)

**STATEMENT OF REASONS OF COMMISSIONER DAVID M. MASON AND
COMMISSIONER BRADLEY A. SMITH**

While we approve of the Counsel's recommendation to dismiss this case, and join in another Statement of Reasons¹, we wish to add one short point.

Because of the legal position taken by the Commission, which we believe is inescapable, it was not necessary to investigate the validity of the allegations in the complaint. By dismissing without a factual investigation, the Commission essentially holds that even if the allegations in the complaints are true, there is no violation of the law. Taking those allegations as true, however, would mean that there was an intentional effort by CBS to sway the election against George W. Bush, undertaken in coordination with the rival Kerry campaign. In other words, if the allegations are true, a large corporation intentionally or recklessly put false documents on the nation's airwaves, in coordination with a candidate's campaign, with the knowledge that its story would directly reach millions of voters and indirectly reach millions more, all for the purpose of influencing the election, and could do so merely because the corporation claims to be "press." Given that, we can find no statutory, constitutional, or especially, policy justification that would deny the so-called press exemption to any periodical publisher of political news or views, whether publishing in print, by broadcast, or over the internet.²

¹ See MUR 5540 & 5545 Statement of Reasons by Vice Chairman Toner and Commissioners Mason and Smith.

² With the exception of those owned by a candidate or party, for which a statutory denial might be appropriate. See 2 U.S.C. 431(9)(B)(i), excluding from the exemption publications that are "owned or controlled by any political party, political committee, or candidate."

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David M. Mason
David M. Mason
Commissioner

Bradley A. Smith/vw
Bradley A. Smith
Commissioner

7-15-05
Date

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